

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Criminal No. 04-125 (2) (RHK/AJB)

Plaintiff,

ORDER

vs.

Agustin Camba Gonzalez,

Defendant.

Before the Court is Defendant's Motion for modification of his 120-month sentence following a plea of guilty to a charge of conspiracy to distribute 500 or more grams of methamphetamine. His advisory guidelines range was calculated at 87-108 months, although he faced a 120-month mandatory minimum sentence. The guidelines range, contemplated in his plea agreement, was calculated based upon the application of the so-called "safety valve." However, at sentencing it was revealed that Defendant had declined to provide full information to the Government—accordingly, he was not entitled to the two-point reduction in his offense level nor the avoidance of the statutory mandatory minimum of 120 months. He was sentenced to 120 months in prison.

His present Motion must be denied because his sentence was not based upon the sentencing guidelines but rather upon the statutory mandatory minimum of 120 months. Amendment to the Guidelines did not impact the mandatory minimum established by Congress.

Based on the foregoing, and all the files, records and proceedings herein,
Defendant's "Motion for Modification of Petitioner's Sentence Pursuant to 18 U.S.C.
3582 (c)(2) and 2D1.1. Under Amendment 591 to the Refer to Scc. 2X1.1 Sentencing Guideline
Effected November 1, 2000" (Doc. No. 115) is **DENIED**.

Dated: January 6, 2010

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge